

**Testimony of Susan D. Whiting,
President and Chief Executive Officer
Nielsen Media Research
before the
Senate Committee on Commerce, Science and Transportation
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Good morning. My name is Susan Whiting and I am President and Chief Executive Officer of Nielsen Media Research.

It was about a year ago that I first testified before this committee. Since then my team and I at Nielsen have worked very hard to follow your advice and to make a superior measurement system even better. I have met with many Members of the Committee to hear their concerns and share Nielsen's story, including our vision for the future of audience measurement technology, and our commitment to working with all of our clients

Nielsen Media Research is in the truth business: the truth of what people are actually watching on television, and how they are watching it. We all watch television differently today than we did five years ago. Today, for example, the average TV household has more than 100 channels from which to choose. Consumers are also choosing digital technologies such as TiVo, Video on Demand and video gaming.

With this diversity of entertainment choices, Nielsen is committed to providing the entire marketplace with the most accurate TV ratings possible.

To anyone who has been involved in this industry for the past five years, it is clearly apparent that Nielsen has made more advancements and invested more money in TV audience measurement services than at any other time in our history.

During the last year, we made significant investments in all aspects of TV audience measurement – sampling, data collection, data processing, and data delivery – which we believe will further improve the accuracy of our ratings. We continue to invest in the leading edge of measurement technologies and look forward to new systems that will measure a broad spectrum of digital technologies.

These new investments and initiatives produce change, and different clients react differently to these changes.

As you may have experienced with your voters, it is very hard to make everyone in your constituency happy. Nielsen is committed to working with all of our constituents, our clients, which include broadcasters, cable operators, advertising agencies and advertisers – all with competing and often conflicting demands on a ratings service. A truly independent ratings service, offering the highest quality and most accurate ratings, is vital for the marketplace to operate effectively.

Nielsen must remain independent of these conflicting interests. For example, on the legislation we are discussing today, two powerful players, the National Association of Broadcasters and Comcast have taken opposite positions on this legislation.

Unwarranted and Unwise Legislation

Given the progress we have made and the inherent conflicts within the industry we serve we do not believe legislation is either necessary or advisable, in fact we feel it is unwarranted and harmful.

I think these points were ably recognized by the Federal Trade Commission in its March 30, 2005 response to your request that it consider oversight of TV ratings. As you recall from its response, the FTC said, that, in Nielsen's case, "well constructed industry self-regulatory efforts can be more prompt, flexible and effective than government regulation."

I believe S.1372 is both unnecessary and harmful to the long-term interests of the entire television community.

First, it is unnecessary. The Media Rating Council and Nielsen have, over the past 40 years, established a strong working relationship that has enabled us to introduce increasingly more accurate ratings systems. Over the past few weeks, for example, the MRC has put forward guidelines for all MRC members and measurement services -- called A Voluntary Code of Conduct -- that would both clarify and strengthen the MRC's relationship with all measurement services as well as with its own membership. The MRC recently provided to its members and all measurement services — television, radio, newspaper and Internet—a proposed voluntary code of conduct to deal with the rollout of new measurement technologies in the marketplace. Among the first things we have already agreed to, for example, is that no future commercial ratings service will be launched without the transparency of a full audit having taken place.

Other elements of the Code are under discussion at this time, and we are confident that, after appropriate give and take, that the industry will reach agreement with all ratings services on the Code and we can submit it to the Justice Department and the FTC for a business review. We believe in principle that the proposed Voluntary Code of Conduct represents a valid approach to enhancing the MRC process, and that if it is approved by MRC members and all measurement services, we intend to adopt it.

In other words, since the free-market, private enterprise system is working, we do not need a legislative solution to a problem that does not exist.

That is why S.1372 is unnecessary. Here is why it is harmful.

The mandatory accreditation required under S.1372 would slow ratings innovation to a crawl. Vital new systems for measuring all forms of digital television could remain idle

while MRC members debated. In an environment that is becoming increasingly governed by political and economic self-interest, that process could literally take years. Technology, however, won't wait. Nor will clients. The transition from analogue to digital television technologies would be frustrated at the lack of timely measurement.

As you know when you watch television, and from your experience on the Committee, new digital media are emerging with breathtaking speed, and audiences are increasingly willing to use devices like DVRs and Video on Demand to take control of their viewing experiences. The sale of DVRs is expected to nearly double within two years, and advertisers and broadcasters need to know, as soon as possible, what impact this will have on how audiences watch TV.

If ratings companies are required to operate new services without generating revenue for a significant period of time, it is unlikely they will develop or implement expensive new audience measurement innovations. Such a prospect also is a significant barrier to entry into this market by any competitor. Indeed, if technology and telecommunication firms faced these restrictions, computers, cell phones and the Internet would still be on the drawing boards.

We do not believe it is good public policy to transform the MRC into a vehicle that limits competition from new program sources, especially from smaller, independent, and minority-owned stations and networks looking to compete against media giants. More precise ratings technology enhances the voice of minorities by making possible niche programming on new cable networks and television stations aimed at the African American, Hispanic, Asian, and Arab-American communities. These advancements could grind to a halt with mandatory ratings accreditation. This is why a number of minority competitors had issued statements in opposition to legislation, including both TV One and BET.

Working With the Task Force

As you know, Nielsen continues to work closely with the Independent Task Force on Television Measurement. This Task Force was created last year at the suggestion of Congressman Charles Rangel, for the very purpose of offsetting the need for Congressional involvement. The Task Force worked for more than eight months – and continues to work – and released a major report to Nielsen, which we shared with the industry, that included recommendations in the areas of sampling, field operations, fault rates, diversity and communications.

With your permission, Senator, I would like to submit for the record a copy of the Task Force's report, Nielsen's response, and the follow-up report released just last month. Considering the importance of this Task Force Report and the enormous commitment in time and effort from people representing a diverse spectrum of Americans, especially former Representative Mrs. Cardiss Collins who chaired the Task Force. I should also note that the Task Force has issued a statement in opposition to S.1372, and I would also like to submit those comments for the record.

The Task Force has, indeed, been the focus for many of the very constructive initiatives that we have been sharing for some time now with our clients, others in the industry and with Congress. Yet the full breadth of audience measurement – including sample design, sample recruiting and maintenance, data collection systems, metering, data processing and data reporting (all involving hundreds of millions of dollars in spending by Nielsen) – have improved over the years because of the painstaking work we have done with our clients through the Media Rating Council’s accreditation process.

I do want to mention just one initiative, and this came about from our work through the Task Force as well as with the MRC, and that is the creation of a special Council for Research Excellence, created earlier this year. We created this Council in order to involve the industry in setting the direction of basis R&D in the area of methodological research.

In addition to the tens of millions of dollars we spend each year on methodological and statistical research, Nielsen has committed an additional \$2.5 million for special research as recommended by the Council. The Council is composed of 40 clients, including the MRC, representing the entire television industry. The Council is chaired by Mark Kaline, global media manager for Ford Motor Company, one of the largest buyers of television advertising time in the United States.

Responding to a Changing Market

Why would anyone agree to create a Council or serve on a Council when the MRC, under the bill, would be the final authority over everything pertaining to the ratings services?

Instead of a new bill we, as an industry, need to support the MRC by agreeing to a new, voluntary audit and accreditation standards that will enable measurement services to respond more quickly to dynamic changes in the television landscape so that digital technologies including Digital Video Recorders, DVD Recorders, Video on Demand, and Time Shifting can be included in the measurement of audiences.

Congress has mandated the shift in broadcast television from analogue to digital. Over the past 12 years, we have supported that mandate by completely revamping our metering and reporting technology with investments of over a hundred million dollars. I can only assume that the underlying assumption behind this mandate is that there would be no government-imposed barrier to measuring audiences to digital television. But S. 1372 imposes formidable barriers by mandating that no ratings service could measure anything without the approval of the MRC.

Since the last time we were here, we have significantly enhanced our ability to more accurately measure all television audiences. For example:

- On March 3, 2005, after more than 12 years of R&D, and hundreds of millions of dollars in spending, Nielsen introduced a new digital metering system, called the Active/Passive Meter System, or A/P Meter for short. The A/P Meter is

fundamentally a set meter, but it is also a platform for in-home measurement of many new digital television devices. In July 2005, Nielsen began rolling out the new A/P Meter system into the national and local People Meter samples. Without this system, we would not be able to measure digital signals and there would be no viable business model for digital television.

- In May we began to implement a program of personal coaching, performance-based incentives and reminder mailings designed to reduce overall and differential faulting in Local People Meter markets. This represents another ongoing multi-million investment.
- In June we delivered a plan for enabling measurement of Video on Demand programming in our syndicated ratings panels.
- DVR measurement has been successfully implemented in our set-meter and diary markets. We remain on-schedule for installation of DVR households in the national and local People Meter samples beginning in January 2006. So far, we have installed more than 200 DVR households across 47 local markets.
- In June 2005, Nielsen completed the translation of all of its recruitment materials for sample households into Spanish, developed key recruitment materials in Mandarin, Japanese, Korean, Vietnamese, and Tagalog. We are also tailoring our “introductory video” that is provided to new sample households for Asian audiences. We also recently added several training procedures on cultural sensitivity to our 10-week Field Training program.

Conclusion

To conclude my remarks today, self-regulation dictated through government mandate has many of the same disadvantages as direct government oversight, without the protection of formal rulemaking processes or public accountability.

What is more, it lacks the agility, flexibility and resourcefulness that come from free market forces. Those qualities have served the Media Rating Council and its members well for more than four decades, and they are worth preserving.

I would like to reiterate Nielsen’s commitment to producing the most accurate TV ratings possible; that we serve a broad and sometimes contentious client base; and that we are committed to working with the MRC, our clients, and community leaders to assure transparency and accuracy in the ratings.

Finally we believe in the voluntary MRC accreditation process, and legislatively mandate this process would be harmful not just to Nielsen but to everyone.

Thank you.